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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/580,448	05/30/2000	Scott Andrew Snyder	051638-5001-02	2465
7278	7590	11/05/2003	EXAMINER	
DARBY & DARBY P.C.				SUBRAMANIAN, NARAYANSWAMY
P. O. BOX 5257				ART UNIT
NEW YORK, NY 10150-5257				PAPER NUMBER
				3624

DATE MAILED: 11/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/580,448	SNYDER, SCOTT ANDREW
	Examiner Narayanswamy Subramanian	Art Unit 3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 03 September 2003.
- 2a) This action is **FINAL**.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-53 is/are pending in the application.
  - 4a) Of the above claim(s) 46-53 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-45 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This office action is in response to Applicant's communication filed on September 3, 2003 (Paper No. 12). Claims 1-53 are pending. Applicant's election of Group I claims 1-45 is acknowledged. Claims 46-53 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. Applicant is respectfully advised to cancel the non-elected claims in response to this office action. Elected claims 1-45 have been examined. The rejections and response to arguments are stated below.

#### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-11, 13, 14, 17-22, 26-31, 33-35, 37, 38, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr. et al (US Patent 6012051) in view of Jacobs (US Patent 5768142) as discussed in the last office action (Paper No. 7).

4. Claims 8 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr. et al (US Patent 6012051) in view of Jacobs (US Patent 5768142) and further in view of Kimura et al (US Patent 5521364) as discussed in the last office action (Paper No. 7).

5. Claims 12, 15, 16, 36, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr. et al (US Patent 6012051) in view of Jacobs (US Patent 5768142)

and further in view of Ulwick (US Patent 6085165) as discussed in the last office action (Paper No. 7).

6. Claims 23-25 and 43-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sammon, Jr. et al (US Patent 6012051) in view of Jacobs (US Patent 5768142) further in view of Scott et al (US Patent 6292787) as discussed in the last office action (Paper No. 7).

*Response to Arguments*

7. With reference to Applicants' arguments on page 13 of their communication (Paper No. 12) that Sammon's "product domain" does not encompass "commodity categories", the Examiner disagrees. For instance mutual funds (See Sammon Column 3 lines 59-61) could be equity funds, fixed income funds, money market funds etc. Each of these commodities is separate and distinct. To say that money market funds and equity funds are the same commodity would be erroneous.

With reference to Applicant's arguments on page 14, that Sammon does not teach ranking of commodities with different options, Applicants are directed to Sammon Column 3 lines 8-43. Continuing with the example given above, Equity funds may come with different options such as Capital appreciation, income, growth and income, Indexed funds etc. Ranking of these funds are clearly taught by the steps disclosed in Sammon. Also such rankings are old and well known in the art.

With reference to Applicant's arguments on page 14, that Jacobs does not teach selecting options for multiple categories of commodities, the Examiner disagrees. The combinations of text and graphics in the example cited by Jacobs (See Jacobs Col 2 line 56 - Col 3 line 62 and claim 32) are examples of options that the user can choose from.

In response to applicant's argument on page 14 that Jacobs is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Sammon does not teach the problem of choosing a combination of options wherein said combination has at least two categories. Jacobs addresses the problem of choosing a combination of options wherein said combination has at least two categories. The combinations of text and graphics in the example cited by Jacobs (See Jacobs Col 2 line 56 - Col 3 line 62 and claim 32) are examples of options that the user can choose from. Hence Jacobs is analogous art.

Applicants' other arguments have been considered but are not persuasive. Hence the rejections made in the last office action are maintained.

***Conclusion***

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (703) 305-4878. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (703) 308-1065. The fax number for Formal or Official faxes and Draft or Informal faxes to the Patent Office is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113.

N. Subramanian  
October 27, 2003

Richard Weisberger  
Primary Examiner